

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 246 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

SAIYED FEIZ MOHMAH NOORMOHMED

Versus

AHMEDABAD MUNICIPAL CORPORATION

Appearance:

MR DR BHATT for Petitioner

MR DK SONI for MR SI NANAVATI for Respondent No.1, 2

None present for Respondent No. 3, 4

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 15/10/1999

ORAL JUDGEMENT

1. This is a case which exhibits how arbitrarily and contrary to the provisions of the Constitution the Ahmedabad Municipal Corporation, Ahmedabad has acted in the present case. This is the second litigation by a person who though has been selected but the persons placed below in merits than him in the waiting list have been given the appointment and he has been singled out.

2. The facts are not in dispute that the Municipal Corporation of Ahmedabad invited applications for making appointment by selection on the post of Extension Educators. In response to the advertisement, the petitioner applied for that post and he was called for the interview and his name was placed at Sr.No.7 in the waiting list. It is not a case where the waiting list was not acted upon by the Corporation but the waiting list was acted upon and the persons who were placed at Sr.No. 9, 11, 12 and 18 were given the appointment but the petitioner was left out and he approached to this court by filing a special civil application No. 1694 of 1975 which was decided on 13th November, 1978 on the statement made by Shri S.N. Shelat, advocate who put appearance for Ahmedabad Municipal Corporation in that case in this court. The judgment of this court reads as under:

Mr. S.N. Shelat declares that on disposal of this petition, the petitioner is to be given appointment forthwith as an extension educator in same centre or Bureau in Ahmedabad and that the post for which he has filed the petition is abolished.

In view of above statements by Mr. Shelat this petition is dismissed as infructuous. Rule is accordingly discharged with no order as to costs.

3. It is not in dispute that the petitioner thereafter was given the appointment but he was not given the appointment from the deemed date i.e. from the date on which the persons who were placed lower in merits than him in the waiting list were given the appointment.

4. This petition has been filed by the petitioner seeking the relief of direction to the Municipal Corporation of Ahmedabad for giving him the appointment on the post of Extension Educator from 19th April, 1975. He further prays for giving him all consequential benefits flowing from his deemed date of appointment from the aforesaid date.

5. This petition has not been contested by the respondents and as such the averments made by the petitioner therein are to be accepted and accordingly the same are accepted.

6. The petition in substance has been accepted and it is the fault of the respondents as a result of which

the petitioner's appointment has been delayed for considerable time and I do not find any justification in the action of the respondents not to compensate the petitioner by giving him all the consequential benefits i.e. the appointment from deemed date and actual benefits of services. For the appointment and the consequential reliefs, the petitioner has to come up before this court. No justification whatsoever has been given either by the Municipal Corporation of Ahmedabad or by the private respondents not to give the petitioner the appointment from the date on which the persons who have been placed lower in merits than him in the waiting list have been given the appointment.

7. As a result of the aforesaid discussion, this petition deserves to be accepted and accordingly the same is allowed. The respondents are directed to treat the petitioner as if he is appointed on the post of Extension Educator w.e.f. 19th April, 1975. The petitioner shall be entitled for all the consequential benefits, i.e. the continuity of service, confirmation and seniority as well as the salary for the period from the date of his appointment till the date on which actually he was given the appointment. The calculation of the amount of arrears of salary payable to the petitioner has to be made by the respondent No.1 within a period of one month from the date of receipt of writ of this order and the arrears so fixed be paid to him within period of one month next. Necessary orders regarding giving him the deemed date of appointment as well as placing him accordingly at appropriate place in the seniority list has to be passed within a period of two months. The petitioner is also entitled for costs of this petition. The respondent Municipal Corporation is directed to pay Rs.2500/- as costs of this petition to the petitioner which amount has been paid as per the statement of his counsel to him for providing the petitioner his professional services in the matter. Rule is made absolute.

zgs/-